

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA**

CALVIN HAMMOCK,

Plaintiff,

V.

NASA HEADQUARTERS, DEPARTMENT OF DEFENSE, SPACE EXPLORATION TECHNOLOGIES SPACE X, APPLE, BLACKBERRY (CURVE) CORPORATION, VIRGIN MOBILE, MEDIACOM WIFI, AMERICAN WATER IOWA, ANY YET UN-IDENTIFIED ENTITIES, PERSONS, SATELLITES, GOVT. AGENCIES, GOVT. TECHNOLOGIES, INTER AGENCIES, FUSION CENTER PARTICIPANT PARTNERS CORPORATIONS, COMPANIES, SOFTWARE USED BY AND WITH STATE ACTORS AND TEMPORARY STATE ACTORS

Defendants.

Case No. 3:15-cv-00111-CRW-CFB

**MCC IOWA, LLC’S REPLY BRIEF  
IN FURTHER SUPPORT OF ITS  
MOTION TO DISMISS**

Comes now Defendant MCC Iowa, LLC, d/b/a Mediacom (“Mediacom”), by and through its undersigned counsel, and hereby respectfully submits its Reply Brief in Further Support of Its Motion to Dismiss Plaintiff Calvin Hammock’s (“Plaintiff”) Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

## ARGUMENT

In Plaintiff's Resistance to Mediacom's Motion to Dismiss, he asserts that his 42 U.S.C. §§ 1983 and 1985 claims have not expired because "Plaintiff's complaint on Federal Claim form 95 was sent to the Department of Defense and NASA on February 7, 2014 within the 2 year statute of limitations . . . ." (D.I. 25 at pg. 11). However, what Plaintiff has failed to appreciate

is that administrative complaints submitted pursuant to the Federal Tort Claims Act do not toll the statute of limitations against private entities such as Mediacom. *See Jack's Canoes & Kayaks, LLC v. Nat'l Park Serv.*, 933 F. Supp. 2d 58, 74 (D.D.C. 2013) ("Plaintiff provides no authority for the proposition that the FTCA statute of limitations (which applies to actions *against the United States*, 28 U.S.C. § 2401(a)) governs . . . insofar as it is asserted against . . . a non-federal defendant, and this Court is aware of none." (emphasis in original)). Thus, the timing of Plaintiff's administrative complaint is irrelevant to his claims against Mediacom. And, as Mediacom explained in its Motion to Dismiss, the two year statute of limitation on Plaintiff's Section 1983 and 1985 claims against Mediacom has expired. (D.I. 19-1 at pgs. 12-14).

Plaintiff's Resistance does not otherwise raise any arguments that are not fully disposed of by Mediacom's Brief in Support of its Motion to Dismiss. (D.I. 19-1). The expiration of the statute of limitation, the lack of sufficient allegations to support a § 1983 or § 1985 claim, the failure to plead a tort cause of action, and the lack of subject matter jurisdiction due to Plaintiff's facially implausible factual theory each separately and independently require dismissal of all claims against Mediacom, to the extent any have even been asserted.

### CONCLUSION

For the foregoing reasons, and the reasons provided in Mediacom's Motion to Dismiss, Mediacom respectfully requests the Court dismiss the Complaint against Mediacom with prejudice.

Dated: December 29, 2015.

FAEGRE BAKER DANIELS LLP

/s/ Terri L. Combs  
 Terri L. Combs, *Lead Counsel*  
*terri.combs@FaegreBD.com*  
 801 Grand Avenue, 33rd Floor  
 Des Moines, Iowa 50309  
 Telephone: (515) 248-9000

Facsimile: (515) 248-9010  
**Attorney for Defendant**  
**MCC Iowa, LLC d/b/a Mediacom**

**Certificate of Service**

The undersigned hereby certifies that a true copy of the foregoing was served through the Court's CM/ECF filing system and through U.S. Mail on the 29th day of December, 2015 on the following:

**VIA U.S. Mail**

Calvin Hammock  
5106 Brown Street  
Davenport, Iowa 52806  
*Plaintiff/Petitioner*

Department of Defense  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

NASA Headquarters  
Charles Bolden Administrator  
300 E. Street SW  
Washington, DC 20024-3210

Blackberry (Curve) Corporation  
6700 Koll Center Parkway, #200  
Pleasanton, CA 94566

American Water Iowa  
1025 Laurel Oak Road  
Vorhees, NJ 08043

**VIA ECF**

Philip A. Burian  
Simmons Perrine Moyer Bergman PLC  
115 Third Street SE, Suite 1200  
Cedar Rapids, IA 52401  
*Attorney for Apple, Inc.*

Michael R. Reck  
Belin McCormick, P.C.  
Kelsey J. Knowles  
666 Walnut Street, Suite 2000  
Des Moines, IA 50309  
*Attorneys for Virgin Mobile*

Christopher Cardaci  
Space Exploration Technologies Corp., *pro se*  
1030 15<sup>th</sup> Street NW Suite 220E  
Washington, D.C. 20005  
*Senior Counsel for Space Exploration Technologies Corp.*

/s/ Terri L. Combs